Reg. No. KL/TV/12.

Government of Kerala
1975

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XX] Trivandrum, Monday, 27th October 1975 / 5th Karthika 1897 [No. 625

NOTICE

No. C4-89960/75. *25th October, 1975.*

Whereas I am satisfied that the public place mentioned in Schedule-I below is required in connection with the launching of the Equatorial Sounding Rockets from the Launching Station at Pallithura in the Attipra Village of Trivandrum Taluk by the Space Research Division of the Department of Atomic Energy to the Government of India.

I, V. N. Rajan, Inspector-General of Police in exercise of the powers conferred upon as under section 24 of the Kerala Police Act, 1960 (Act V of 1961) hereby reserve temporarily the public place mentioned in Schedule-II and prohibit persons from entering the area so reserved save under conditions as may be prescribed by me.

Schedule—I

PLACE OF LAUNCHING

The Rocket will be fired from the Launcher on a Pad at Pallithura near Trivandrum on the west coast of India.

FIRING SCHEDULE

Date	*Danger Time (IST)*	*Rocket Type*	*Pay-load*
29-10-1975 & 30-10-1975	1930-2230 hrs. (both days)	M 100-B	Met.

LAUNCHER CO-ORDINATES

Latitude—8° 32′ 34″ N
Longitude—76° 51′ 32″ E

FIRING DIRECTION

	M-100 B
Azimuth (Effective)	235°
Elevation (Effective)	82°

Schedule—II

DANGER ZONES

1. A Sector of radius 5 NM from launcher between azimuth angles 190 and 300 deg.

2. A Sector of radii 15 NM and 50 NM from launcher between azimuth angles 220 and 260 deg.

All types of Aircraft, Shipping Boats, etc., especially Fishing Boats of all description are warned to keep clear the Danger Zones mentioned above.

Office of the Inspector-General of Police,
Kerala State, Trivandrum-10.

V. N. RAJAN,
Inspector General of Police.

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1975

Reg. No. KL/TV(N)/12

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

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GOVERNMENT OF KERALA

Law (Leg. A) Department

NOTIFICATION

No. 16634-Leg (A) 2/75/Law.

Dated, Trivandrum, 27th October, 1975/
5th Karthika, 1897.

The following Ordinance promulgated by the Governor on the 26th day of October, 1975, is hereby published for general information.

By order of the Governor,
M. SEKHARAN,
Law Secretary.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1975.

33/3378/MC.

ORDINANCE No. 12 OF 1975

THE KERALA GENERAL SALES TAX (SECOND AMENDMENT) ORDINANCE, 1975

Promulgated by the Governor of Kerala in the Twenty-sixth Year of the Republic of India.

AN

ORDINANCE

further to amend the Kerala General Sales Tax Act, 1963.

Preamble.—WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Kerala General Sales Tax (Second Amendment) Ordinance, 1975.

(2) It shall come into force at once.

2. *Act 15 of 1963 to be temporarily amended.*—During the period of operation of this Ordinance, the Kerala General Sales Tax Act, 1963 (15 of 1963) (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3 to 12.

3. *Amendment of section 3.*—In section 3 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) The Board of Revenue shall have superintendence over all officers and persons employed in the execution of this Act and the Board of Revenue may—

(a) call for returns from such officers and persons;

(b) make and issue general rules and prescribe forms for regulating the practice and proceedings of such officers and persons;

(c) issue such orders, instructions and directions to such officers and persons as it may deem fit, for the proper administration of this Act.".

4. *Amendment of section 18.*—In section 18 of the principal Act, for sub-section (1), the following sub-sections shall be substituted, namely:—

"(1) The tax for each year payable under any of the provisions of this Act may be assessed and levied in advance during the year and for that purpose, a dealer may be required to furnish within the prescribed period either an advance estimate of his turnover for the year or such periodical returns of the actual turnover as may be prescribed.

(1A) The assessing authority may determine the amount of tax payable in respect of any period under sub-section (1) and on such assessment the dealer shall pay the sum demanded in monthly or other prescribed instalments within such time as may be fixed by such authority.".

5. *Amendment of section 19.*—In sub-section (2) of section 19 of the principal Act,—

(a) for the words "a penalty not exceeding one and a half times the tax so assessed", the words, figures and letter "a penalty as provided in section 45 A" shall be substituted;

(b) in the proviso, for the words "penalty under this sub-section", the words "such penalty" shall be substituted;

(c) after the proviso, the following *Explanation* shall be inserted, namely:—

"*Explanation.*—Notwithstanding anything contained in the Indian Evidence Act, 1872, the burden of proving that the escapé from assessment was not due to wilful nondisclosure of assessable turnover by the dealer shall be on the dealer.".

6. *Amendment of section 23.*—In sub-section (3) of section 23 of the principal Act,—

(i) in the opening paragraph, for the words "by way of penalty", the words "by way of penal interest" shall be substituted;

(ii) in clause (a), for the words "half percent", the words "one percent" shall be substituted;

(iii) in clause (b), for the words "one percent", the words "two percent" shall be substituted.

7. *Amendment of section 28.*—In section 28 of the principal Act,—

(a) for the proviso to sub-section (3), the following proviso shall be substituted, namely:—

"Provided that no residential accommodation (not being a shop-cum-residence) shall be entered into or searched unless such officer is specially authorised in writing by the Board of Revenue to search that accommodation.";

(b) in sub-section (7),—

(i) in clause (b), for the words "a warrant issued by a Magistrate of the First Class having jurisdiction over the area in which the box or receptacle or godown or building is kept or situate", the words "an authorisation in writing by the Board of Revenue" shall be substituted;

(ii) after clause (b), the following clause shall be inserted, namely:—

"(c) the power to search any person who has got out of, or is about to get into, or is in, any place referred to in clause (a) or clause (b) of sub-section (3) or any vessel or vehicle of any dealer, if the officer has reasons to

suspect that such person has secreted about his person any goods or any accounts, registers, records or other documents.";

(c) sub-section (9) shall be omitted.

8. *Insertion of new section 45 A.*—In Chapter VIII of the principal Act, before section 46, the following section shall be inserted, namely:—

"45 A. *Imposition of penalty by officers and authorities.*—(1) If the assessing authority or the Appellate Assistant Commissioner is satisfied that any person,—

(a) being a person required to register himself as a dealer under this Act, did not get himself registered; or

(b) has failed to keep true and complete accounts; or

(c) has failed to submit any return as required by the provisions of this Act or the rules made thereunder; or

(d) has submitted an untrue or incorrect return; or

(e) has failed to comply with all or any of the terms of any notice or summons issued to him by or under the provisions of this Act or the rules made thereunder; or

(f) after purchasing any goods in respect of which he has made a declaration under the proviso to sub-section (3) of section 5, has failed to make use of the goods for the declared purpose; or

(g) has acted in contravention of any of the provisions of this Act or any rule made thereunder, for the contravention of which no express provision for payment of penalty or for punishment is made by this Act,

such authority or officer may direct that such person shall pay, by way of penalty, an amount of fifty rupees or twice the amount of sales tax or other amount evaded or sought to be evaded, whichever is higher.

Explanation.—The burden of proving that any person is not liable to the penalty under this section shall be on such person.

(2) No order under sub-section (1) shall be passed unless the person on whom the penalty is proposed to be imposed is given an opportunity of being heard in the matter.

(3) The Deputy Commissioner may, on application by any person on whom penalty is imposed under sub-section (1), for reasons to be recorded in writing, reduce or waive such penalty.

(4) An order of the Deputy Commissioner under sub-section (3) shall, subject to the provisions of sub-section (5), be final.

(5) The Board of Revenue may, either *suo motu* or on application, call for and examine the record of any order passed under sub-section (1) or sub-section (3) and make such order as it thinks fit:

Provided that no order enhancing a penalty or cancelling the waiver of a penalty shall be passed unless the person affected thereby is given an opportunity of being heard in the matter.

(6) An order of the Board of Revenue under sub-section (5) shall be final.".

9. *Amendment of section 47.*—In section 47 of the principal Act, sub-section (2) shall be omitted.

10. *Insertion of new sections 55 A. and 55 B.*—After section 55 of the principal Act, the following sections shall be inserted, namely:—

"55 A. *Rounding off of turnover, tax, etc.*—The amount of taxable turnover computed in accordance with the provisions of this Act shall be rounded off to the nearest multiple of ten rupees and the amount of tax or other amount due under this Act shall be rounded off to the nearest rupee.

55 B. *Service of notice.*—Any notice required to be served on, or given to, any person under this Act or the rules made thereunder shall be deemed to be duly served or given—

(a) if the notice is addressed to that person and is given or tendered to him; or

(b) where that person cannot be found, if it is affixed on some conspicuous part of his last known place of residence or business or is tendered to some adult member of his family; or

(c) if it is sent by registered post to that person at his last known place of residence or business.".

11. *Amendment of First Schedule.*—In the First Schedule to the principal Act,—

(a) after serial number 16 and the entries relating thereto, the following shall be inserted, namely:—

"16 A.	Upholstered furniture supported on steel frames	do.	12";

(b) after serial number 25G and the entries relating thereto, the following shall be inserted, namely:—

"25 GG.	Hydrogenated oil, refined oil and margarene	do.	9".

12. *Amendment of Third Schedule.*—In the Third Schedule to the principal Act,—

(a) for item 9, the following item shall be substituted, namely:—
"9. Fresh fruits.";

(b) after item 13, the following item shall be inserted, namely:—
"14. Bread.".

N. N. WANCHOO,
GOVERNOR.

Reg. No. KL/TV/12

Government of Kerala
1975

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

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GOVERNMENT OF KERALA

Law (Leg. A) Department

NOTIFICATION

No. 17125-Leg (A) 2/75/Law. *Dated, Trivandrum, 27th October, 1975/ 5th Karthika, 1897.*

The following Ordinance promulgated by the Governor on the 26th day of October, 1975, is hereby published for general information.

By order of the Governor,
M. SEKHARAN,
Law Secretary.

PRINTED AND PUBLISHED BY THE S.G.P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1975.

33/3879/MC.

ORDINANCE No. 13 OF 1975

THE AGRICULTURAL INCOME-TAX (AMENDMENT) ORDINANCE, 1975

Promulgated by the Governor of Kerala in the Twenty-sixth Year of the Republic of India.

AN

ORDINANCE

further to amend the Agricultural Income-tax Act, 1950.

Preamble.—WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Agricultural Income-tax (Amendment) Ordinance, 1975.

(2) It shall come into force at once.

2. *Act XXII of 1950 to be temporarily amended.*—During the period of operation of this Ordinance, the Agricultural Income-tax Act, 1950 (XXII of 1950) (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3 to 6.

3. *Amendment of section 16.*—In section 16 of the principal Act,—

(a) in sub-section (1),—

(i) for the words "two other members", the words "as many other members as they think fit" shall be substituted;

(ii) for the words "other two members", the words "other members" shall be substituted;

(b) for sub-sections (3) to (3E), the following sub-sections shall be substituted, namely:—

"(3) (a) Subject to the provisions of clause (b), the functions of the Appellate Tribunal may be performed—

(i) by a Bench consisting of the Chairman and any other member; or

(ii) by a Bench consisting of the Chairman and two other members; or

(iii) by a Bench consisting of two or more members other than the Chairman.

(b) The Chairman or any other member of the Appellate Tribunal nominated by him may, sitting singly, dispose of any case which pertains to an assessee whose total agricultural income as computed by the Agricultural Income-tax Officer in the case does not exceed fifteen thousand rupees.

(3A) If any case which comes up before a Bench consisting of a single member other than the Chairman, or a Bench consisting of more than one member, of which the Chairman is not a member, involves a question of law, the Bench may, in its discretion, reserve such case for decision by the Chairman or by a Bench to be constituted under sub-section (3B), of which the Chairman shall be a member.

(3B) The Bench or Benches of the Appellate Tribunal shall be constituted by the Chairman in accordance with the provisions of this Act and the rules made thereunder.

(3C) If the members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, they shall state the point or points on which they differ, and such point or points shall be heard—

(i) when the Chairman is not a member of that Bench, either by the Chairman or by the Chairman and any other member or members as the Chairman may direct; and

(ii) when the Chairman is a member of that Bench, by any other member or members to whom the case is referred by the Chairman, and such point or points shall be decided according to the opinion of the majority of the members of the Tribunal who have heard the case, including those who first heard it.

(3D) Any member who has previously dealt with any case coming up before the Appellate Tribunal in any other capacity or is personally interested in any case coming up before the Appellate Tribunal, shall be disqualified to hear that case.

(3E) Where any case is heard by a Bench consisting of two members and the members are divided in their opinion on any point and the other member or members of the Tribunal are disqualified under sub-section (3D) to hear the case, the Government may appoint a person qualified to be appointed as a member of the Appellate Tribunal as an additional member of the Tribunal and the point shall be decided in accordance with the opinion of the majority of the members of the Tribunal who have heard the case including those who first heard it.

(3F) The additional member appointed under sub-section (3E) shall cease to hold office on the disposal of the case for which he was appointed.".

4. *Amendment of section* 35.—In section 35 of the principal Act, for the words "three years", wherever they occur, the words "five years" shall be substituted.

5. *Amendment of section* 64.—In section 64 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Any notice required to be served on, or given to, any person under this Act or the rules made thereunder shall be deemed to be duly served or given—

(a) if the notice is addressed to that person and is given or tendered to him; or

(b) where that person cannot be found, if it is affixed on some conspicuous part of his last known place of residence or business or is tendered to some adult member of his family; or

(c) if it is sent by registered post to that person at his last known place of residence or business.".

6. *Substitution of new section for section* 66.—For section 66 of the principal Act, the following section shall be substituted, namely:—

"66. *Power to order production of accounts and powers of entry, inspection, etc.*—(1) An officer not below the rank of an Agricultural Income-tax Officer may, for the purposes of this Act, by notice, require any assessee or any other person who, in the opinion of such officer, is liable to pay tax under this Act—

(a) to produce or cause to be produced before him any accounts, registers, records or other documents; or

(b) to furnish or cause to be furnished any other information; which such officer considers to be relevant for the purpose of any proceedings under this Act and such assessee or other person shall comply with such requisition.

(2) Any officer not below the rank of an Agricultural Income-tax Officer may, at any reasonable time,—

(a) enter any land or any vessel or vehicle belonging to any assessee or any other person who, in the opinion of such officer, is liable to pay tax under this Act; and

(b) inspect any accounts, registers, records or other documents which such officer considers to be relevant for the purpose of any proceedings under this Act.

(3) If any officer not below the rank of an Agricultural Income-tax Officer has reason to believe that an assessee or any other person is trying to evade any tax under this Act, he may, for reasons to be recorded, enter and search any place where the assessee or such other person is keeping or is reasonably believed to be keeping any accounts, registers, records or other documents relating to his agricultural income:

Provided that no residential accommodation shall be entered into or searched.

Explanation.—For the purposes of this sub-section, "place" includes any godown, building, vessel, vehicle, box or receptacle.

(4) All searches under this section shall, so far as may be, be made in accordance with the provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

(5) The officer making the inspection or search may seize such accounts, registers, records or other documents as he considers necessary and on such seizure shall grant the assessee or such other person a receipt of the things seized.

(6) The accounts, registers, records or other documents seized under sub-section (5) shall not be retained by the officer seizing them beyond a period of thirty days from the date of the seizure except with the permission of the next higher authority, unless they are required for any prosecution under this Act:

Provided that the next higher authority shall not give permission to retain such accounts, registers, records or other documents beyond a period of forty-five days from the date of the seizure.

(7) The powers conferred by sub-sections (3) and (5) shall include—

(a) the power to break open any box or receptacle or place or the door of any premises, in which any accounts, registers, records or other documents of the assessee or such other person are, or are reasonably believed to be, kept:

Provided that the power to break open the door shall be exercised only after the owner or any other person in occupation of the premises fails or refuses to open the door on being called upon to do so;

(b) the power to seal any box or receptacle, godown or building, where any accounts, registers, records or other documents are, or are reasonably believed to be, kept, if the owner or any other person in occupation leaves the premises or refuses to open the box or receptacle, godown or building, or is not available, and then to break open such box, receptacle, godown or building on the authority of an authorisation in writing by the Board of Revenue.

(8) Without prejudice to the powers conferred by the foregoing provisions of this section, any agricultural incometax authority or any person authorised by him in writing in that behalf may inspect and, if necessary, take copies or cause copies to be taken of any register of the members, debenture-holders or mortgagees of any company or of any entry in such register.".

N. N. WANCHOO.
GOVERNOR.